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BERNARD CO

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SOUTHERN DIVISION**

12 BERNARD CO,

13 Plaintiff,

14 vs.

15 EXPERIAN INFORMATION
16 SOLUTIONS, INC.

17 Defendant

18
19
20
21 Case No.: 8:22-cv-1537
COMPLAINT AND DEMAND FOR
JURY TRIAL FOR VIOLATIONS
OF THE FAIR CREDIT
REPORTING ACT [15 U.S.C. §
1681, ET. SEQ.]

22 **INTRODUCTION**

23 1. BERNARD CO (Plaintiff) brings this action to secure redress from
24 Defendant EXPERIAN INFORMATION SOLUTIONS, INC. (hereinafter
25 “Experian” or “Defendant”) for violations of the Fair Credit Reporting Act
26 (“FCRA”).

27 **JURISDICTION AND VENUE**

28 2. Jurisdiction in this Court is proper pursuant to 28 U.S.C. § 1331 as Plaintiff’s
claims arise under the laws of the United States.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) Defendant's corporate headquarters is within this district and Defendant transacts business here.

PARTIES

4. Plaintiff is an individual, residing in Cook County, Illinois. Plaintiff is a natural person from whom a debt collector seeks to collect a consumer debt which is due and owing or alleged to be due and owing.

5. Defendant is a corporation with its principal place of business located in Costa Mesa, CA. At all relevant times herein, Defendant was an entity which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engaged in whole or in part in the practice of assembling or evaluating consumer credit information or other consumer information for the purpose of furnishing consumer reports to third parties, and used some mean or facility of interstate commerce for the purpose of preparing or furnishing consumer reports, and is therefore a "consumer reporting agency" as defined by 15 U.S.C. § 1681a(f). Likewise, Defendant is a "consumer reporting agency" within the meaning of the CCRAA, Cal. Civ. Code § 1785.3(d).

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

7. Plaintiff is informed and believes and on that basis alleges that Defendant is responsible for the acts, occurrences and transactions as officers, directors or managing agents of Defendant, or as its agents, servants, employees, and that each of them are legally liable to Plaintiff, as set forth below

FACTUAL ALLEGATIONS

8. Within two years prior to the filing of this action, Defendant has reported derogatory and inaccurate statements and information on Plaintiff's credit file (hereinafter "inaccurate information").

9. Specifically, although Plaintiff filed for bankruptcy in the United States
District Court for the Central District of California Case 2:21-bk-16330 on August
9, 2021 and received a discharge of her debts on November 15, 2021, Defendant

1 has nonetheless since that time falsely and inaccurately reported that Plaintiff owes
2 outstanding deficiency balances on his BMO Harris, Capital One Bank, Chase and
3 Sunrise (Charter) accounts.

4 10. Within the last two (2) years, Plaintiff sent dispute correspondence to
5 Defendant regarding the false and inaccurate credit information listed *supra*.

6 11. As of the date of the filing of this complaint, Defendant continues to report
7 the inaccurate information on Plaintiff's credit files.

8 12. Despite Plaintiff's exhaustive efforts to date to remove this erroneous
9 information, Defendant has nonetheless repeatedly, deliberately, willfully,
10 intentionally, recklessly, and negligently failed to perform reasonable investigations
11 of the above disputes as required by the FCRA, has failed to remove the inaccurate
12 information, has failed to include accurate information, and has continued to report
13 the inaccurate information about Plaintiff.

14 13. As a direct and proximate result of Defendant's conduct, Plaintiff has
15 suffered great physical, emotional and mental pain and anguish, and Plaintiff will
16 continue to suffer the same for an indefinite time in the future, all to Plaintiff's great
17 detriment and loss.

18 14. As a direct and proximate result of Defendant's conduct, Plaintiff has
19 suffered actual damages in the form of financial and dignitary harm arising from the
20 injury to credit rating and reputation, and Plaintiff will continue to suffer the same
21 for an indefinite time in the future, all to Plaintiff's great detriment and loss.

22 15. As a direct and proximate result of Defendant's conduct, Plaintiff has
23 suffered a decreased credit score as a result of the negative entry appearing on
24 Plaintiff's credit file, which has hindered and harmed his ability to obtain credit,
25 and diminished his existing and future creditworthiness.

26 16. As a direct and proximate result of Defendant's above-referenced willful
27 and/or negligent violations of the law, Plaintiff has suffered actual damages
28 including, but not limited to, reviewing credit reports, attorney's fees, and such
further expenses in an amount to be determined at trial.

FIRST CAUSE OF ACTION

(Violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.)

17. Plaintiff realleges and incorporates herein by reference each and every paragraph set forth above.

18. The Fair Credit Reporting Act provides that if the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate, or delete the item from the file within 30 days of receiving the consumer's dispute notice. 15 USC § 1681i(a)(1)(A).

19. The Act further requires the credit reporting agency, within 5 business days of receiving notice of the consumer's dispute, to provide notification of the dispute to the person who furnished the information in dispute and requires the credit reporting agency to "include all relevant information regarding the dispute that the agency received from the consumer." 15 USC § 1681i(a)(2) (A). In conducting its reinvestigation of disputed information in a consumer report, the credit reporting agency is required to "review and consider all relevant information submitted by the consumer."

20. Within the two years preceding the filing of this complaint, Plaintiff notified Defendant of an inaccuracy contained in its report and asked Defendant to correct the inaccuracy.

21. Defendant failed to conduct a reasonable reinvestigation of the inaccuracies that Plaintiff disputed, in violation of 15 U.S.C. § 1681s-2(a) and 2(b).

22. Defendant failed to review and consider all relevant information submitted by Plaintiff.

23. As a result of Defendant's failure to conduct a reasonable reinvestigation in accordance with the requirements of 15 U.S.C. § 1681i(a)(1), Defendant has failed to remove erroneous information in its credit reporting relating to Plaintiff, after having been notified that Plaintiff disputes that information.

1 24. Defendant's failure to comply with the requirements of 15 U.S.C.
2 §1681i(a)(1) was willful within the meaning of 15 U.S.C. § 1681n(a) and negligent
3 within the meaning of 15 U.S.C. § 1681o(a).

4 25. As a result of Defendant's willful and negligent noncompliance with the
5 requirements of 15 U.S.C. §§ 1681e(b) and 1681i(a)(1), Plaintiff has suffered
6 damage to her credit ratings and other actual damages and is entitled to actual,
7 statutory and punitive damages under 15 U.S.C. §§ 1681n(a) and o(a).

8 **SECOND CAUSE OF ACTION**

9 **(Willful Failure to Employ Reasonable Procedures To Ensure Maximum
10 Accuracy of Credit Reports in Violation of 15 U.S.C. § 1681e(b))**

11 26. Plaintiff incorporates the foregoing paragraphs as though the same were set
12 forth at length herein.

13 27. Defendant is regularly engaged in the practice of assembling and evaluating
14 consumer credit information for the purpose of preparing consumer reports, as that
15 term is defined in 15 U.S.C. § 1681a(d), commonly referred to as Credit Reports,
16 and furnishing these Credit Reports to third parties.

17 28. Defendant uses means and facilities of interstate commerce for the purpose
18 of preparing and furnishing Credit Reports and, hence, is a "consumer reporting
19 agency" within the meaning of 15 U.S.C. § 1681a(t).

20 29. In preparing Credit Reports, Defendant has failed to use reasonable
21 procedures to, as required by law, "assure maximum possible accuracy" of
22 information relating to inaccurately reported information, in violation of 15 U.S.C.
23 § 1681e(b).

24 30. As a result of Defendant's failure to use reasonable procedures in accordance
25 with the requirements of 15 U.S.C. § 1681e(b), Defendant is reporting inaccurate
26 and materially misleading information about Plaintiff.

27 31. Defendant's failure to comply with the requirements of 15 U.S.C. § 1681e(b)
28 is willful within the meaning of 15 U.S.C. § 1681n(a).

32. As a result of Defendant's willful noncompliance with the requirements of

1 15 U.S.C. § 1681e(b), Plaintiff is entitled to statutory and punitive damages under
2 15 U.S.C. § 1681n(a)(1) and (a)(2).

3 33. As a further result of Defendant's willful noncompliance with the
4 requirements of 15 U.S.C. § 1681e(b), Plaintiff has suffered damage to his credit
5 rating and other actual damages.

6 **THIRD CAUSE OF ACTION**

7 **(Negligent Failure to Employ Reasonable Procedures To Ensure Maximum
8 Accuracy of Credit Reports in Violation of 15 U.S.C. § 1681e(b) and Cal. Civ.
9 Code § 1785.14(b))**

10 34. Plaintiff incorporates the foregoing paragraphs as though the same were set
11 forth at length herein.

12 35. In preparing credit reports relating to Plaintiff, Defendant has failed to follow
13 reasonable procedures to assure maximum accuracy of information it puts in Credit
14 Reports in violation of 15 U.S.C. § 1681e(b).

15 36. As a result of Defendant's failure to follow reasonable procedures in
16 accordance with the requirements of 15 U.S.C. § 1681e(b), Defendant is falsely
17 reporting balances that Plaintiff does not owe.

18 37. Defendant's failure to comply with the requirements of 15 U.S.C. § 1681e(b)
19 is negligent within the meaning of 15 U.S.C. § 1681o(a).

20 38. As a result of Defendant's negligent violations of the requirements of 15
21 U.S.C. § 1681e(b) and Cal. Civ. Code § 1785.14(b), Plaintiff has suffered damage
22 to his credit rating and other actual damages.

23 RESPECTFULLY SUBMITTED,

24 Dated: August 18, 2022 **MARTIN & BONTRAGER, APC**

25 26 27 28 By: /s/ G. Thomas Martin, III
29 G. Thomas Martin, III
30 Attorneys for Plaintiff